HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.12250 OF 2007

Between:

M/s.GTC Industries

. . .Petitioner

AND

The Principal Secretary to Government,
Revenue Department, Hyderabad and others

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Shri M.V.J.K.Kumar

Counsel for respondents : Government Pleader for Commercial Tax

7th August, 2007

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PER G.S.SINGHVI, CJ

This is a petition for quashing order dated 05.03.2007 passed by Deputy Commissioner (Commercial Taxes), Guntur-II Division, Guntur under Section 12(2) of Andhra Pradesh Tax on Luxuries Act, 1987 (for short, 'the Act') whereby he revised the order of exemption passed by Commercial Tax Officer, Kothapeta Circle, Guntur and declared that the assessee (the petitioner herein) is liable to pay tax on the turnover of Rs.11,94,890/- during the year 2001-2002.

Learned counsel for the petitioner relied on the judgment of the Supreme Court in **Godfrey Phillips India Limited v. State of Uttar Pradesh**[1] and argued that in view of the pronouncement of Constitution Bench that the Act is ultra vires to the provisions of the Constitution and that tobacco cannot be subjected to luxury tax, the impugned order is liable to be quashed.

Learned Government Pleader for Commercial Taxes fairly stated that ratio of the Supreme Court judgment in **Godfrey Phillips India Limited v. State of Uttar Pradesh** (supra) is attracted in the petitioner's case.

In view of the above, the writ petition is allowed and the revisional order passed by respondent No.2 is quashed.

As a sequel to disposal of the main petition in the manner indicated above, WPMP No.15260 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

7th August, 2007

C.V.NAGARJUNA REDDY, J

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[1] 139 STC 2005 page-537